

Application No.: 10/031,686

Docket No.: 209565-81733

REMARKS

Claims 1-15, and 24 were previously canceled and no new claims are canceled herein. Claims 16, 17, 19, and 28 are amended herein and no new claims are added. Accordingly, claims 16-23, and 25-30 remain under prosecution in this application.

35 USC §103

Claims 16-21 and 25-28 are rejected under 35 USC § 103 as being unpatentable over Janssen in view of Inoue and further in view of Monzaki. The undersigned agrees with the Examiner inasmuch as Janssen does not explicitly teach detecting and evaluating the vibration behavior of at least two driven wheels to determine gravel road conditions and further the undersigned agrees with the Examiner that Janssen does not teach detecting and evaluating the wheel acceleration. However, the Examiner believes that a reference cited within Janssen (GB 2 289 097A) teaches "detecting and evaluating vibration directed solely on the driven wheels. . ." Thus, the Examiner is attempting to use GB 2 289 097A as a reference which teaches the claimed limitation ". . .detecting and evaluating the vibration behavior of at least two individual vehicle wheels. . ." However, GB 2 289 097A falls significantly short of meeting this claim limitation. The undersigned has enclosed herewith a copy of US Patent 5,556,174 which is the US equivalent of GB 2 289 097A. In column 2, lines 1-27, of the '174 reference, the teaching relied upon by the Examiner is set forth. It is clear from this portion of the '174 reference that GB 2 289 097A does not teach detecting and evaluating the vibration behavior of at least two driven vehicle wheels nor does it teach detecting and evaluating the wheel acceleration of at least two driven wheels but rather it teaches monitoring the speed rotation at the differential (see column 2, line 2 and column 2, line 27). A critical aspect of the present invention is activating a control function of the vehicle only when conditions for gravel road are identified for both wheels on one side of the vehicle and/or one vehicle axle (see paragraph [0016] of the substitute specification, clean copy). Thus, in order to satisfy this important aspect of the invention, detecting and evaluating vibration and detecting and evaluating acceleration must be done for at least two individual wheels and not for the differential. At best, the speed of rotation V_D at the differential is the average of the wheel speeds (see column 2, lines 44 et. seq. of US Patent 5,556,174). As is the case with all average values, the individual differences associated with the

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Docket No.: 209565-81733

quantities that make up the average are lost once the average is calculated and subsequently used for all further calculations.

In view of this major distinction between the claimed invention and the teachings of GB 2 289 097A (and its equivalent US Patent 5,556,174), the undersigned now believes that this case is now in condition for allowance.

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Respectfully submitted,

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